

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

DAVID CLARK *et al.*,

Plaintiffs,

v.

DUKE UNIVERSITY *et al.*,

Defendants.

No. 16-1044-CCE-LPA

REPLY IN SUPPORT OF MOTION TO STRIKE DOC. 112

Rule 7.3(i) not only was not the “best available method” for informing the Court of the *Johns Hopkins* appeal, it was not even an available method. If Defendants want the Court to take an action (set a conference or stay this case, e.g.), they must file a motion. Fed.R.Civ.P. 7(b). A “Notice of Subsequent Authority” is available only when there is a pending motion. There is no pending motion in this case. Moreover, such a Notice must “contain only the citation to the case relied upon[.]” L.R. 7.3(i). This is another aspect of the Rule that Defendants violated, by advancing argument and requesting relief. The Court should strike the Notice for these reasons.

If Defendants want the Court to take an action (set a conference or stay this case, e.g.), they must file a motion. Fed.R.Civ.P. 7(b). If they want the Court to alter or amend the case management scheduling order, they must show good cause. Fed.R.Civ.P. 16(b). Even if Defendants properly moved for an order setting a status conference, that motion should be rejected for the same reasons as the Court stated in *Sims v. BB&T Corp.*, No. 15-732, Text Order (Oct. 3, 2018). Defendants can address the *Johns Hopkins* case in briefing their motion for summary judgment that is due by November 16.

October 9, 2018

Respectfully submitted,

/s/ Michael A. Wolff

SCHLICHTER BOGARD & DENTON LLP

Jerome J. Schlichter, MO No. 32225*

Michael A. Wolff, MO No. 38207*

Kurt C. Struckhoff, MO No. 61873*

100 South Fourth Street, Suite 1200

St. Louis, Missouri 63102

(314) 621-6115, (314) 621-5934 (fax)

jschlichter@uselaws.com

mwolff@uselaws.com

kstruckhoff@uselaws.com

**appearing by special appearance*

Lead Counsel for all Plaintiffs

/s/ David B. Puryear, Jr.

David B. Puryear, Jr.

North Carolina State Bar No. 11063

PURYEAR & LINGLE, PLLC

5501-E Adams Farm Lane

Greensboro, NC 27407

(336) 218-0227

puryear@puryearandingle.com

Local Counsel for all Plaintiffs

CERTIFICATE OF COMPLIANCE

Pursuant to the Civil Local Rules of Practice for the United States District Court for the Middle District of North Carolina, this is to certify that the foregoing document complies with the font and point selections approved by the Court in Local Rule 7.3(d)(1). The foregoing was prepared on computer using Times New Roman font (13 point). I certify that this document contains 224 words.

/s/ Michael A. Wolff

CERTIFICATE OF SERVICE

I certify that on October 9, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will automatically send notification of filing to all counsel of record.

/s/ Michael A. Wolff